

**BRAMBLETON BRANDT
ZMAP 2004-0024
DRAFT PROFFER STATEMENT**

June 22, 2007

Pursuant to Section 15.2-2303, Code of Virginia (1950), as amended, and Section 6-1209 of the Revised 1993 Loudoun County Zoning Ordinance, as amended (the "Zoning Ordinance"), Brambleton Land Acquisition Associates, LLC (the "Applicant"), as the owners of a property described as Loudoun County Tax Map 91, Parcel 24 (PIN 201-28-2115) (the "Property"), on behalf of itself and its successors in interest, hereby voluntarily proffers that the development of the Property subject to ZMAP 2004-0024 shall be in substantial conformity with the proffers as set forth below.

All proffers made herein are contingent upon approval of (i) ZMAP 2004-0024 and the rezoning of the Property to the Planned Development – Commercial Center (Community Center) ("PD-CC(CC)") and the Planned Development – Housing 4 (administered as R-8) ("PD-H4") zoning classification under the Zoning Ordinance, including the requested modifications as provided in Exhibit A; and (ii) the Concept Development Plan, as defined below. These proffers supersede and replace any proffers previously approved for the Property.

I. CONCEPT DEVELOPMENT PLAN

The development of the Property shall be in substantial conformity with the Concept Development Plan (the "CDP") (included by reference as Exhibit B), identified as Sheets 7, 8 and 15 of the Brambleton Brandt Zoning Map Amendment Plan set dated April 2004, revised through May 24, 2007, prepared by Urban Engineering & Associates, Inc. Minor adjustments to the locations of the proposed uses, facilities and improvements shown on the Concept Development Plan ("CDP") shall be permitted to address utilities, grading, drainage, environmental, cultural and natural features, development ordinance requirements, and other final engineering considerations, and to accommodate the recommendations of archaeological studies. The development of the Property will comply with the Affordable Dwelling Unit ("ADU") regulations of Article VII of the Zoning Ordinance.

II. DEVELOPMENT SCOPE

The Property will be developed using public water and sewer with such facilities provided to the residential portion of the Property at no cost to the County or to the Loudoun County Sanitation Authority ("LCSA"). The Applicant will abandon all existing wells and drainfields on the Property.

A. Residential Development

Development of the residential portion of the Property will include a maximum of 236 single-family attached and single-family detached homes, inclusive of any required ADUs, with related privately owned community facilities and amenities, and including any permissible

special exception use for which the approval of the requisite special exception is received. The mix of residential units will include up to 109 single-family detached units and up to 127 single-family attached units.

B. Commercial Development

Development of the commercial area of the Property, identified as Land Bay G on the CDP (the "Commercial Area"), will include uses permitted in the PD-CC(CC) zoning district, including any special exception use for which the approval of the requisite special exception is received. The Commercial Area shall be subject to architectural, landscaping, lighting and signage design standards promulgated and administered by the Property's Homeowners Association ("HOA"), as described below in Proffer VII.

III. RECREATIONAL AMENITIES, TRAILS, AND SIDEWALKS

A. Recreational Amenities

The Applicant shall provide active and passive recreational amenities and sidewalks within the Property, as shown on the CDP, with the construction of all such items to be done in conjunction with the development of the adjacent residential areas and the construction of the adjacent streets and infrastructure. The active recreation facilities will include two community tot lots and an open play area in the locations shown on the CDP. The open play area will include a minimum of three (3) benches. As discussed in Proffer VII below, the Property will be annexed into an existing HOA at Brambleton, providing access to additional community amenities and open space.

B. Trails and Sidewalks

The Applicant shall construct a multi-purpose 8 foot wide asphalt trail consistent with trails similarly provided throughout the adjoining Brambleton community and as generally shown on the Sheet 8. The trail shall be constructed to connect with adjoining off-site trails. The trail shall be constructed in phases concurrent with the development of adjacent home sites. The location of the trail is shown on Sheet 7. The exact location of all proposed trails shown on the CDP will be determined in consultation with the County in conjunction with the approval of the first residential record plat or first site plan for the Property, whichever is first in time. The Applicant shall convey to the County a public access easement of sufficient width to accommodate the multi-purpose trail, which will be maintained by the Property's HOA, as defined below. Where trails are proposed outside of the Property, the trails will be provided within an easement at no cost to the County.

The Applicant shall provide sidewalks at least five feet in width on all internal public and private streets, as shown on the Sheet 8. The Applicant shall use raised boardwalks over wetlands and waters of the U.S. as part of the planned trail systems, subject to the approval of the County and U.S. Army Corps of Engineers.

IV. TRANSPORTATION

A. Route 621 Relocated Dedications and Improvements

1. The Applicant shall dedicate such right-of-way, along with all necessary construction and maintenance related easements located outside of the right-of-way, as may be needed to accommodate four lanes of a 4-lane divided section of Route 621 Relocated across the Property, from the western boundary of the Property east to Route 659 Relocated, as shown on the CDP. Any right-of-way and all related easements needed for this section of Route 621 Relocated shall be dedicated in conjunction with the approval of the first record plat or first site plan for the Property, whichever is first in time.

2. The Applicant will construct four lanes of a 4-lane divided section of Route 621 Relocated across the Property, from the western boundary of the Property east to Route 659 Relocated, as shown on the CDP. These improvements, if required, shall be bonded for construction prior to the approval of the first record plat or site plan for the Property, whichever is first in time. The construction of the section of Route 621 Relocated by the Applicant shall be subject to the granting of any necessary off-site easements.

3. The Applicant shall construct turn lanes on Route 621 Relocated as may be required by the Virginia Department of Transportation ("VDOT") or the County or as may be desired by the Applicant for access to the Property. These improvements, if required, shall be bonded for construction prior to the approval of the first record plat or site plan for the Property, whichever is first in time.

B. Advance Dedication of Right-of-Way

In the event that the County or others proceed with the construction of Route 621 Relocated through the Property prior to the Applicant's proffered construction schedule, the Applicant shall dedicate rights-of-way and necessary/associated construction and maintenance easements, as long as the locations of the rights-of-way are in substantial conformance with the CDP. Further, Applicant shall not be required to dedicate such right-of-way or easements until and unless construction plans and profiles have been submitted and approved by all necessary parties for the road.

C. Construction and Improvements by Others

In the event that any improvements listed in IV.A. above are constructed and paid for by others, the Applicant shall contribute to Loudoun County an amount equivalent to the verified actual cost of the improvements, as substantiated by paid invoices. Such contribution shall be paid to Loudoun County at the time of the Applicant's obligation to construct such road improvements would have occurred under the terms of these Proffers.

D. Construction of Transportation Improvements

For the purposes of these Proffers the term "construct" is intended to mean open to traffic prior to the issuance of a specified zoning permit.

E. Signalization

1. Prior to receipt of the 175th residential zoning permit at the Property, the Applicant shall fund the warrant analyses, and if warranted, shall design and install the initial traffic signals at the intersection of Route 621 Relocated/East West Connector and Route 659 Relocated and at the intersection of Route 621 Relocated/East West Connector and the entrance to the residential and commercial portions of the Property.

2. In the event that the warrant for these signals has not been met prior to the time of issuance of the 175th residential zoning permit, the Applicant shall contribute \$150,000 for each unwarranted signal concurrent with the issuance of the 175th zoning permit.

F. Loudoun County Parkway and East-West Connector/ Route 621 Relocated Improvements

In lieu of separate contributions that might otherwise be made for capital facilities, public transit and regional transportation improvements, for this application and other rezoning applications at Brambleton, the Applicant shall participate in the construction of sections of Loudoun County Parkway and sections of the East-West Connector/Route 621 Relocated. The timing of construction of these improvements is described in Proffers V.A. and V.B. for ZMAP 2005-0020.

G. Capital Facility and Regional Road Contributions

The improvements discussed in Proffer I.V.F. above are contingent of the approval of ZMAP 2004-0025 (Brambleton Corner) by the Board of Supervisors. In the event that this application is denied, the Applicant shall instead contribute to Loudoun County \$21,464.10 per residential unit concurrent with the issuance of each residential zoning permit (that is, a total of \$5,065,524 calculated based on (a) a \$29,709 capital facility contribution for each market rate single family attached unit and a \$46,819 capital facility contribution for each single-family detached unit plus (b) 3,500 per unit (both market rate and ADUs) for regional transportation impacts with the first priority being the completion of the Loudoun County Parkway through the Brambleton Active Adult community, minus a base density credit of \$3,745,520) and a \$4,005 regional road contribution for the 27,600 square feet of non-residential uses developed at the Property (that is, \$0.15 per gross square foot) in lieu of making improvements discussed in Proffer I.V.F. Said per unit and per gross square foot contributions shall be paid prior to or concurrent with the issuance of each residential and non-residential zoning permit.

V. EMERGENCY SERVICES

A. Fire and Rescue Contribution - Residential Uses

Prior to the issuance of each residential zoning permit, a one-time contribution of \$120.00 per unit for each residential unit shall be paid to the County for distribution by the County to the primary volunteer fire and rescue companies providing service to the Property. Said contribution shall escalate on a yearly basis from the base year of 1988 and change effective each January 1 thereafter, based on the Consumer Price Index as published by the Bureau of

Labor Statistics, U.S. Department of Labor, for the Washington-Baltimore, MD-VA-DC-WV Consolidated Metropolitan Statistical Area (the "CPI"). For the purpose of this Section, a residential unit includes each single family attached dwelling unit, excluding any approved accessory unit. Contributions pursuant to this paragraph shall be divided equally between the primary servicing fire and rescue companies providing service to the Property. Notwithstanding the foregoing, at such time as the primary fire and rescue services to the Property are no longer provided by incorporated volunteer companies, the obligation to make the contributions listed within this paragraph shall cease. The intent of these provisions is to support a volunteer fire and rescue system so long as a volunteer system is the primary provider of fire and rescue services to the Property. If one of these services ceases to be provided by a volunteer company, then the contribution shall be halved and shall continue to be provided to the remaining volunteer company.

B. Fire and Rescue Contribution - Non-Residential Uses

At the time of the issuance of each zoning permit for non-residential uses, a one-time contribution of \$0.20 per gross square foot of non-residential floor area shall be paid to the County for distribution by the County to the primary volunteer fire and rescue companies providing service to the Property. Said contribution shall escalate on a yearly basis from the base year of 1988 and change effective each January 1 thereafter, based on the CPI. For the purpose of this Section, non-residential floor area includes commercial and office area, but excludes HOA facilities and County owned facilities such as schools. Contributions pursuant to this paragraph shall be divided equally between the primary servicing fire and rescue companies providing service to the Property. Notwithstanding the foregoing, at such time as the primary fire and rescue services to the Property are no longer provided by incorporated volunteer companies, the obligation to make the contributions listed within this paragraph shall cease. The intent of these provisions is to support a volunteer fire and rescue system so long as a volunteer system is the primary provider of fire and rescue services to the Property. If only one of these services ceases to be provided by a volunteer company, then the contribution shall be halved and shall continue to be provided to the remaining volunteer company.

VI. ENVIRONMENT

A. Wetlands and Streams

For any wetland and stream impacts on the Property determined to be unavoidable in conjunction with the permitting process, the Applicant shall use commercially reasonable efforts to provide wetland mitigation in the following priority order: 1) onsite, 2) within the same planning policy area, 3) within Loudoun County, subject to approval by the Army Corps of Engineers, and 4) elsewhere as determined by the Applicant.

B. Tree Conservation and Tree Protection

1. The Applicant shall establish tree save areas in the locations shown on Sheet 7 of the Concept Development Plan as the "Tree Conservation Area." Clearing in these areas shall be permitted only for the construction of utility crossings, wetland mitigation, storm water management facilities, best management practices, low impact design facilities and trail

crossings and any such clearing shall be limited to the minimum area required for said construction. The final delineation of the Tree Conservation Areas shall be phased in and established with contiguous site and/or subdivision plans.

2. A minimum of eighty (80) percent of the canopy within the cumulative Tree Conservation Area depicted on the CDP will be preserved, exclusive of stands of Virginia Pine over 25 years in age. In the event that the eighty (80) percent canopy threshold cannot be achieved within the designated Tree Conservation Areas, such lost canopy will be recaptured elsewhere onsite in locations to be designated at the discretion of the Owner in consultation with the County. Boundaries of all Tree Conservation Areas shall be delineated on the record plat recorded for each section of the development. Construction plans shall clearly define the limits of the Tree Conservation Area and all such areas shall be clearly marked in the field. Tree protection fencing shall be placed outside the drip lines along the Tree Conservation Area prior to commencing land-disturbing activities. The Applicant reserves the right to remove, in consultation with the County, any dead, damaged, dying or diseased trees and vegetation, and any tree or vegetation that interferes with construction, proper functioning and/or use of any utility or drainage easement, interferes with clearing and grading for construction of Loudoun County Parkway or creates a danger to property or persons.

3. If, during construction on the Property, it is determined by the Owner's certified arborist and/or the County Urban Forester that any healthy tree located within the boundaries of any of the Tree Conservation Areas described in this Proffer has been damaged during construction and will not survive, then the Owner shall remove each such tree and replace each such tree with two (2) 2½ - 3 inch caliper native, non-invasive deciduous trees. The species and placement of replacement trees shall be proximate to the area of each such damaged tree so removed, or in another area determined in consultation between the Applicant and the County Urban Forester.

4. The HOA documents shall include a provision that prohibits removal of trees in Tree Conservation Areas as shown on the record plat after construction has been completed by the Applicant without specific permission of the County Urban Forester except as necessary to accommodate Forest Management Techniques, performed by or recommended by a professional forester or certified arborist, that are necessary to protect or enhance the viability of the canopy. Such Management Techniques may include, without limitation, pruning and the removal of vines, invasive species, trees uprooted or damaged by extreme weather conditions, and trees or limbs that are diseased, insect-infested, dead, or are considered a hazard to life or property. The HOA documents shall clearly state that such provisions prohibiting tree removal shall not be amended by the Owner or the HOA without written approval from the County. The record plat for each portion of the Property containing a Tree Conservation Area shall contain a note stating that the removal of trees within a Tree Conservation Area is prohibited except in accordance with the Declaration of Covenants.

C. Lighting

Lighting shall be designed and constructed with cut-off and fully shielded lighting fixtures so that the light will be directed inward and downward toward the interior of the Property.

D. Geographic Information System (GIS) Information

The Applicant will provide digital data to the County for the Property's approved wetland delineation prior to the approval of the first site plan or first record plat, whichever is first in time.

E. Reforestation in Open Areas

The Applicant shall reforest open areas within or adjacent to the minor floodplain in an amount equal to the area that encroaches into the 50-foot management buffer associated with jurisdictional waters and wetlands. The area reforested shall be equal in amount to the area that encroaches into the buffer.

VII. HOME OWNERS ASSOCIATION

A. Establishment of HOA

Prior to the approval of the first residential record plat or site plan, whichever is first in time, for the Property, draft documents for the inclusion of the Property into an existing community's homeowners association shall be submitted to the County for review and approval. The Property shall be annexed into an existing community's homeowners association, prior to the approval of the first residential record plat or residential site plan for the Property, whichever is first in time.

B. HOA General Responsibilities

All property owners shall be members of the HOA established to regulate use and provide standards for the construction, landscaping and use of privately owned land and structures within the Property. The HOA shall provide landscaping and lawn maintenance for all common areas and snow removal on all private streets, and shall contract for trash removal services. The HOA shall be responsible for the maintenance of all common recreational facilities and buildings, all stormwater management facilities, all private streets, and all sidewalks not otherwise maintained by VDOT.

VIII. ESCALATOR

Unless otherwise specified, all cash contributions enumerated in these proffers shall be subject to an annual escalator based on the CPI with a base year of 2006. This escalator shall take effect on January 1 of 2007 and change effective each January 1 thereafter.

These proffers shall be binding on the heirs, executors, administrators, assigns, and successors in interest of the Applicant. The undersigned hereby warrants that all of the owners of legal interest in the subject Property have signed this proffer statement, that he/she has full authority to bind the Property to these conditions and that the proffers are entered into voluntarily.

OWNER:

BRAMBLETON LAND ACQUISITION ASSOCIATES, LLC

By: _____(SEAL)

Name: _____

Title: _____

STATE OF _____)
) to-wit:
COUNTY/CITY OF _____)

The foregoing Proffer Statement was acknowledged before me this _____ day of _____, 2007, by _____, as _____ of Brambleton Land Acquisition Associates, LLC.

Notary Public

My Commission Expires: _____

EXHIBIT A

BRAMBLETON BRANDT

LIST OF ZONING MODIFICATIONS

1. Section 5-1405(C) of the Zoning Ordinance: eliminate buffer requirement between land uses internal to the subject development.
2. Section 3-511(A) of the Zoning Ordinance: modify setback from rights-of-way other than arterial road and collector roads from a minimum of twenty feet to fifteen feet.
3. Section 4-205(C)(2) of the Zoning Ordinance: permit building, parking, outdoor storage, areas for collection of refuse or loading closer than one-hundred feet to planned residential district and to permit some parking, outdoor storage, areas for collection of refuse, and loading areas between buildings and streets where visible from roads as shown on the CDP.
4. Sections 4-207(C)(3) and 5-1407(A) of the Zoning Ordinance: to eliminate perimeter buffer requirement between the assisted living facility and service / retail uses.
5. Section 4-206(D)(2) of the Zoning Ordinance: permit the commercial center (community center) to have direct access to a minor arterial road.
6. Section 4-109(C)(2) of the Zoning Ordinance: eliminate the fifty foot buffer requirement along the eastern edge of the property adjacent to Route 659 Relocated as well as the northern tip of the Property as shown on sheet 13 of the CDP.
7. Section 3-509(C) of the Zoning Ordinance: eliminate the fifty foot buffer requirement between residential landbays D and E, along the eastern edge of the Property adjacent to Route 659 Relocated, and the northern tip of the Property as shown on the CDP.

EXHIBIT B

BRAMBLETON BRANDT

CONCEPT DEVELOPMENT PLAN

Cooley Godward Kronish LLP
DRAFT